FAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 08 MAY 12

'08 MJ 1471

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA,	)	Magistrate Docket No.
Plaintiff,	)	
	)	COMPLAINT FOR VIOLATION OF:
v.	)	
	)	Title 8, U.S.C., Section 1326
Ernesto LOPEZ-Figueroa,	)	Deported Alien Found in the
	)	United States
	)	
Defendant	)	

The undersigned complainant, being duly sworn, states:

On or about **May 10, 2008,** within the Southern District of California, defendant, **Ernesto LOPEZ-Figueroa,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **12th** **DAY OF** **MAY 2008.**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Ernesto LOPEZ-Figueroa

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On May 10, 2008, at approximately 2:45 P.M., Border Patrol Agent S. Pair was performing line watch duties near an area known as "Spooner's Mesa". This area is approximately four miles west of the San Ysidro, California, Port of Entry and is approximately 300 yards north of the United States/Mexico International Boundary Fence. "Spooner's Mesa" is an area notoriously used by illegal aliens to further their illegal entry into the United States.

While performing line watch duties, Border Patrol Agent F. Madrigal and Agent Pair were advised by dispatch via agency radio of a seismic intrusion device activation. Agent Madrigal and Agent Pair responded to the area and after a brief search, we discovered nine individuals in the thick brush including one later identified as the defendant, **Ernesto LOPEZ-Figueroa**. Agent Pair identified himself as a United States Border Patrol Agent and questioned the defendant as to his country of citizenship and nationality. The defendant freely admitted that he was a citizen and national of Mexico and that he possessed no immigration documentation permitting him to enter or remain in the United States legally. At approximately 2:40 pm., all nine suspects, including the defendant, were arrested and taken to the Imperial Beach Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **September 4, 2007** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated he understood and was willing to answer questions without having a lawyer present. The defendant admitted to being a citizen and national of Mexico without having the proper immigration documents allowing him to be or remain in the United States legally.